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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,326	12/29/1999	THOMAS J. FOTH	E-977	2120

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EXAMINER
BACKER, FIRMIN

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/474,326	FOTH ET AL.
	Examiner	**Art Unit**	
	Firmin Backer	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this. communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 February 2005* .

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____ .

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
    application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) ☐ Other: .

Response to Request for Reconsideration

1.   This is in response to a request for reconsideration file February 16th, 2005. Claims 1-8

are being reconsidered in this action.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Krishman et al

(U.S. Patent No. 6,073,124).

4.   As per claims 1 and 8, Krishman et al teach a method for using a computer to facilitate a

transaction between a merchant and a buyer comprising downloading into the computer a digital

content file of the merchant, the digital content file including a header with information related to

purchasing a digital content product and the digital content product in encoded form, and using

the computer for reading the downloaded header displaying at least some of the information

related to purchasing the digital content product while concurrently downloading the encoded

digital content product into the computer (*see fig 2, summary of the invention and column 6 lines

44-7 lines 43, 8 lines 26-10 line 55)*.

5.   As per claim 2, Krishman et al teach a method comprising inputting a request to purchase

the digital content product into the computer, outputting from the computer the request to

purchase to a broker computer, receiving at the computer from the broker computer a key for

decoding the encoded digital content product in response to the request to purchase, and using

the key at the computer to decode the encoded digital content product while concurrently

displaying the decoded digital content product (*see fig 2, summary of the invention and column 6*

lines 44-7 lines 43, 8 lines 26-10 line 55).

6.   As per claims 3, Krishman et al teach a method comprising concurrently downloading the

encoded digital content product into the computer while decoding the encoded digital content

product and displaying the decoded digital content product (*see fig 2, summary of the invention*

and column 6 lines 44-7 lines 43, 8 lines 26-10 line 55).

7.   As per claims 4, Krishman et al teach a method for using a computer by a broker to

encrypt digital content product files of a merchant that are hosted at a merchant web site

comprising of inputting into the computer the digital content product files designated for

encryption together with the web site location of the digital content product files and information

required to access the digital content product files via the computer, connecting to the web site

and accessing and encrypting the digital content product files designated for encryption and

storing the encrypted digital content product files at the web site (*see fig 2, summary of the*

invention and column 6 lines 44-7 lines 43, 8 lines 26-10 line 55).

8.   As per claims 5, Krishman et al teach a method further comprising inputting into the

computer a location at the web site where each of the encrypted digital content product files are

to be stored, and storing the encrypted digital content product files at the location (*see fig 2,*

summary of the invention and column 6 lines 44-7 lines 43, 8 lines 26-10 line 55).

9.   As per claims 6, Krishman et al teach a method comprising using the computer to create a

buyer product file for each encrypted digital content product file, the buyer product file including

the encrypted digital content product file and a header having information about the digital

content product file for use by a buyer in making a decision on whether to purchase the digital

content product (*see fig 2, summary of the invention and column 6 lines 44-7 lines 43, 8 lines 26-*

10 line 55).

10.   As per claims 7, Krishman et al teach a method for distributing from a first computer

digital content products for purchase, the method comprising encrypting a first digital content

product file; statically storing the encrypted first digital content product file at the computer,

storing a second digital content product file in unencrypted form at the computer; and inputting a

request into the first computer for downloading from the first computer to a second computer at

least one of the encrypted first digital content product file and the second digital content product

file, wherein at times when the request is for the encrypted first digital content product file

downloading the first encrypted digital content file to a second computer, and at times when the

request is for the second digital content product file dynamically encrypting the second digital

content product file while maintaining the storing of the second digital content product file in

unencrypted form (*see fig 2, summary of the invention and column 6 lines 44-7 lines 43, 8 lines*

26-10 line 55).

Response to Arguments

11.   Applicant's arguments filed February 16th, 2005 have been fully considered but they are

not persuasive.

        a.   Applicants in essence argue that the prior Krisham et al fail to teach the inventive

concept disclose in claims 1 and 8. Examiner respectfully disagrees with Applicant's

characteristics of the prior art. Krihsman et al teach a secure digital commerce system

interacts with an online purchasing system, such as a virtual store, to facilitate user to

purchase merchandise over a network, such as the Internet or the World Wide WEB

network (the WEB). The virtual store typically provides a set of icons, which each

describe an item of merchandise that can be purchased. For example, graphical icon 203

in fig 2, is an example icon that is linked to the functionality needed to purchase a

Microsoft Corp. software game entitled "RETURN OF ARCADE." Each icon is

typically linked to a server site on the network, which is responsible for supplying the

content of the item when purchased if the item is capable of electronic delivery. When the

user selects one of the icons, the browser application, as a result of processing the link,

sends a request for the selected item to the server site. Thus, when a customer selects the

icon 203, an HTTP request message is sent to an appropriate server site to locate and

download the software modules that correspond to "RETURN OF ARCADE."

Furthermore, the secure digital commerce system provides a modularized DCS client and

a modularized DCS server that interact with the online purchasing system to perform a

purchase. The DCS client includes a set of client components; support for downloading

the client components onto a customer computer system; and support for communicating

with the DCS server to license an item of merchandise. The client components contain a

secured (e.g., encrypted) copy of the content and various components needed to license

and purchase the merchandise and to unsecure (e.g., decrypt) and execute the licensed

merchandise. The DCS client communicates with the DCS server to download the client

components onto a customer's computer system in response to a request for merchandise

from the online purchasing system. The DCS client also communicates with the DCS

server to license and purchase the requested merchandise. The DCS server generates an

electronic license certificate, which contains license parameters (e.g., terms) that are

specific to the requested merchandise and to a desired purchasing option (such as trial

use, permanent purchase, or rental). The DCS server then sends the generated electronic

license certificate to the DCS client. Once a valid electronic license certificate for the

requested merchandise is received by the DCS client, the merchandise is made available

to the customer for use in accordance with the license parameters contained in the

electronic license certificate. *The DCS client includes a download file, a user interface*

library, a purchasing library, a secured content file, a DCS security information file, and

licensing code. **There is a download file for each item of merchandise that can be**

distributed electronically, which contains an executable boot program. The boot

program is responsible for determining what components need to be downloaded for a

requested item of merchandise. The secured content file contains the content that

corresponds to the requested item of merchandise. The content may be a computer

program, data, or a combination of both. One or more of the remaining components can

be shared by several items of merchandise. For example, the user interface library, which

defines a user interface used to purchase and license merchandise, may be specific to an

item of merchandise or may be uniform for an entire online purchasing system. The

purchasing library, licensing code, and DCS security information file are used to interact

with the DCS server to properly license requested merchandise. In particular, the

licensing code ensures that the requested merchandise is not operable by the customer

until it has been properly licensed by the DCS server (emphasis added) see also column

8-10. For the reason above the 102 rejection is maintained

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

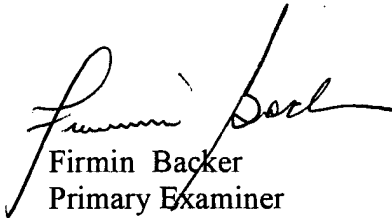will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (571) 272-6703. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Firmin Backer
Primary Examiner
Art Unit 3621

May 13, 2005